

UNITED STATES DISTRICT COURT

for the
Western District of Washington

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In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)
Eight Facebook accounts, more particularly described in
Attachment A

Case No.

MJ20-5019

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, attached hereto and incorporated by reference herein.

located in the Northern District of California, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, attached hereto and incorporated by reference herein.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 USC § 287; 18 USC 371;	False Claims; Conspiracy to Commit Offense or to Defraud United States; Making
18 USC § 1001; 18 USC § 1341; 18 USC § 1343	False Statement or Entries; Mail Fraud; Wire Fraud

The application is based on these facts:

See Affidavit of Department of Veterans Affairs, Office of Inspector General Special Agent Joseph McGivern

- ☒ Continued on the attached sheet.
☒ Delayed notice of 365 days (give exact ending date if more than 30 days: 02/10/2021) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Joseph McGivern, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 02/10/2020

City and state: Tacoma, Washington

Judge's signature

David W. Christel, United States Magistrate Judge

Printed name and title

ATTACHMENT A
Description of Property to be Searched

1. This warrant applies to information associated with the Facebook user profiles jewels.pics, kevinmcmains, philip.genz.5, angiegenz, PamSuterMcMains, CenterPointEatonville, and user ID 100008763150849 and group ID 166504783699335, stored at premises owned, maintained, controlled, or operated by Facebook, a company headquartered in Menlo Park, California. The full URLs for these accounts are as follows:

<https://www.facebook.com/jewels.pics>

<https://www.facebook.com/kevinmcmains>

<https://www.facebook.com/philip.genz.5>

<https://www.facebook.com/angiegenz>

<https://www.facebook.com/PamSuterMcMains>

<https://www.facebook.com/CenterPointEatonville>

<https://www.facebook.com/profile.php?id=100008763150849>

<https://www.facebook.com/groups/166504783699335>

ATTACHMENT B
Particular Things to be Seized

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook shall disclose the following information to the government for the user ID listed in Attachment A:

- (a) All contact and personal identifying information, including full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities;
- (c) All photos and videos uploaded by that user ID and all photos and videos uploaded by any user that have that user tagged in them;
- (d) All profile information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; Friend lists, including the Friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;
- (e) All other records of communications and messages made or received by the user, including all private messages, chat history, video calling history, and pending "Friend" requests;
- (f) All "check ins" and other location information;

- (g) All IP logs, including all records of the IP addresses that logged into the account;
- (h) All records of the account's usage of the "Like" feature, including all Facebook posts and all non-Facebook webpages and content that the user has "liked";
- (i) All information about the Facebook pages that the account is or was a "fan" of;
- (j) All past and present lists of friends created by the account;
- (k) All records of Facebook searches performed by the account;
- (l) All information about the user's access and use of Facebook Marketplace;
- (m) The types of service utilized by the user;
- (n) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);
- (o) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (p) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

II. Information to be seized by the government

The following information described above in Section I that relates to the ongoing fraud investigation involving Kevin and Jewel McMains, for the user ID, user profiles, and group ID, identified in Attachment A:

- (a) Any content including e-mails, messages, texts, photographs, visual images, documents, spreadsheets, address lists, and contact lists
- (b) Any metadata contained in images, to include but not limited to the date, time, and location the image was taken.

- (c) All records relating to who created and used the user ID's, and all records identifying any person with whom the user has been in contact
- (d) All subscriber records associated with the specified accounts, including name, address, local and long distance telephone connection records, records of session times and durations, length of service (including start date) and types of service utilized, telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address, and means and source of payment for such service including any credit card or bank account number.
- (e) Any and all other log records, including IP address captures, associated with the specified accounts.
- (f) Any records of communications between Facebook and any person about issues relating to the account, such as technical problems, billing inquiries, or complaints from other users about the specified account. This to include records of contacts between the subscriber and the provider's support services, as well as records of any actions taken by the provider or subscriber as a result of the communications.

AFFIDAVIT OF JOSEPH MCGIVERN

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I, Joseph McGivern, being first duly sworn, hereby depose and state as follows:

I. INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Department of Veterans Affairs, Office of Inspector General (VA-OIG), assigned to the Seattle field office, and have been since May 2019. From 1999 to 2019, I was a Special Agent with the Naval Criminal Investigative Service. Since becoming an investigator, I have received training and conducted investigations related to homicide and suicide, sexual assault, drugs, child abuse and exploitation, fraud, larceny, counterintelligence, and counter-terrorism. I have found, in my experience, subjects of all types of criminal investigations routinely use digital devices and social media in the commission of a crime or to maintain information that is evidence of a crime.

2. I make this affidavit in support of an application for a search warrant for the eight Facebook, Inc. (Facebook) accounts with user names “kevinmcmains”; “jewels.pics”, “philip.genz.5”, “angiegenz”, “PamSuterMcMains”, “CenterPointEatonville”, profile ID “100008763150849”, and group ID “166504783699335” stored at premises owned, maintained, controlled, or operated by Facebook, a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A to the requested warrant. I am seeking a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government copies of the information (including the content of communications) further described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B. A preservation request for accounts

1 kevinmcmains, jewels.pics, and philip.genz5 was previously sent to Facebook and
2 assigned case number 3959344 on December 11, 2019.

SUBJECT FACEBOOK ACCOUNTS to be Searched:	Paragraphs in Which SUBJECT FACEBOOK ACCOUNTS Are Discussed Herein:
https://www.facebook.com/kevinmcmains	53, 56, 64, 66, 69, 71
https://www.facebook.com/jewels.pics	44, 49, 50, 51, 52, 53, 55, 57, 58, 59, 60, 61, 62, 63, 67, 70, 72
https://www.facebook.com/philip.genz.5	65, 68
https://www.facebook.com/angiegenz	43
https://www.facebook.com/PamSuterMcMains	42
https://www.facebook.com/CenterPointEatonville/	47
https://www.facebook.com/profile.php?id=100008763150849	48
https://www.facebook.com/groups/166504783699335/?tn-str=*F	45, 46

3. I seek this warrant because there is probable cause to believe that the
Facebook accounts listed in the index above contain photographs, videos, and other
information, posted by Kevin and Jewel MCMAINS (hereafter referred to as MCMAINS
and JEWEL) and others, that will show that he is able-bodied, healthy, active, and
otherwise capable of independently performing activities of daily living, contrary to what
MCMAINS and JEWEL claimed in his applications for benefits to the Department of
Veterans Affairs (VA). The investigation has shown that MCMAINS and JEWEL have
fraudulently obtained financial benefits from the VA by claiming MCMAINS sustained
physical and psychological injury from an alleged rocket attack that MCMAINS claimed
occurred in October 2007, while he was serving in Iraq.

1 4. The facts set forth in this Affidavit are based on my own personal
 2 knowledge; knowledge obtained from other individuals during my participation in this
 3 investigation, including other law enforcement officers; review of documents and records
 4 related to this investigation; communications with others who have personal knowledge
 5 of the events and circumstances described herein; and information gained through my
 6 training and experience. Because this Affidavit is submitted for the limited purpose of
 7 establishing probable cause in support of the application for a search warrant, it does not
 8 set forth each and every fact that I or others have learned during the course of this
 9 investigation.

10 5. Based on my training and experience and the facts as set forth in this
 11 affidavit, there is probable cause to believe that violations of False Claims, in violation of
 12 18 U.S. Code § 287; Conspiracy to Commit Offense or to Defraud United States in
 13 violation of 18 U.S. Code § 371; Making False Statement or Entries Generally, in
 14 violation of 18 U.S. Code § 1001, Mail Fraud in violation of 18 U.S.C. 1341, and Wire
 15 Fraud in violation of 18 U.S.C. 1343, have been committed by Kevin and Jewel
 16 MCMAINS. I believe the facts contained herein are relevant to the determination of
 17 probable cause to believe that evidence, fruits, and instrumentalities of the crimes listed
 18 in this paragraph will be found in records relating to the SUBJECT FACEBOOK
 19 ACCOUNTS, as further described in Attachment A and Attachment B.

20 **II. PROBABLE CAUSE**

21 ***A. Initiation of the Investigation and Background***

22 6. This investigation of Kevin and Jewel MCMAINS has uncovered records
 23 that indicate the two have fabricated and exaggerated MCMAINS' injuries, limitations,
 24 and disabilities in order to fraudulently obtain financial compensation from the VA. This
 25 investigation began in July 2019, after an employee of the VA, Veterans Health
 26 Administration, Program of Comprehensive Assistance for Family Caregivers (PCAFC)
 27 reported that MCMAINS had applied for the PCAFC in June 2019. While processing
 28 MCMAINS' June 2019 PCAFC application, information surfaced suggesting that

1 MCMAINS was lifting weights and doing light cardiovascular exercise. This activity is
2 atypical of persons who require a caregiver and indicates that MCMAINS may not
3 require assistance with activities of daily living. MCMAINS' June 2019 PCAFC
4 application was therefore denied. In general, the VA considers activities of daily living
5 to be common independent functions typically engaged in everyday life. These activities
6 include bathing, feeding, dressing, toileting/transferring, adjusting prosthetic devices, and
7 protecting oneself from the hazards of the daily environment. The VA offers programs to
8 compensate veterans whose service-connected disabilities significantly impact their
9 ability to independently manage their activities of daily living. These programs are
10 generally reserved for the most drastically injured and impaired veterans.

11 7. In general, veterans apply for benefits by submitting an application to the
12 VA, which indicates the basis for which the benefit should be paid. The VA has
13 numerous programs that veterans may apply for, which include education, home loan,
14 fiduciary, service-connected disabilities, and health care. For service-connected
15 disability benefits, the application is processed by the Veterans Benefits Administration
16 (VBA), a department within the VA. The VBA employs raters who will evaluate the
17 claim and determine if the veteran's record outright supports the claim or if additional
18 evaluation is needed. Raters can call for veterans to be examined by medical
19 professionals when necessary to obtain information that will aid in the evaluation and
20 processing of the claim. The rating process is highly quantifiable, and raters use the
21 information in the veteran's medical record to assign percentages to disabilities which in
22 turn correlate to an appropriate monthly monetary compensation. Paperwork for these
23 programs can be submitted by mail and online.

24 8. The PCAFC is a healthcare focused program and falls under the Veterans
25 Health Administration (VHA), another department within the VA. The PCAFC provides
26 financial compensation to an individual for providing care to qualified veterans/service
27 members. The intent of the program is to compensate caregivers, who are typically
28 family members, for the time they commit to providing the care since it limits their

1 ability to obtain employment. Qualified veterans/service members are those that are
2 unable to care for themselves, who suffer from mental and/or physical disabilities that
3 prevent them from independently accomplishing activities of daily living. Prior to June
4 2019, MCMAINS and JEWEL had applied twice before to the PCAFC, getting accepted
5 once from 2012 through 2015.

6 ***B. MCMAINS' Statements Regarding the Alleged Rocket Attack***

7 9. An investigation into MCMAINS' VA and US Army records has
8 uncovered a pattern of submitting baseless and fraudulent claims to the VA for mental
9 and physical service-connected disabilities. The predication for MCMAINS' claims stem
10 from his 2007 deployment to Iraq. During that deployment, MCMAINS claims he was
11 exposed to injured and deceased persons. US Army records do indicate that MCMAINS
12 supported a Casualty Liaison Team in Iraq, however MCMAINS' documented
13 assignment was administrative in nature. Based on an October 2007 Noncommissioned
14 Officer Evaluation Report from October 2007, MCMAINS' military occupational
15 specialty code while in Iraq was a 42A, Human Resources Specialist. MCMAINS' daily
16 duties were as follows: "Responsible for accurate updates and personnel service which
17 includes reviewing, processing and uploading Non-Commissioned Officer Evaluation
18 Reports and Officer Evaluation Reports for the Soldiers of 1st Cavalry Division, 1st
19 Infantry Division, 10th Mountain Division, 3-2nd SBCT, and all other units within the
20 MND-B AOR consisting of more than 40,000 Soldiers; responsible for the supervision,
21 health, welfare, counseling and training of two Soldiers." MCMAINS received a "poor"
22 rating on his October 2007 evaluation report, and it was noted that his integrity was
23 "compromised upon false submission of information." Medical examinations, and other
24 information uncovered in this investigation, indicate that MCMAINS is exaggerating and
25 feigning the negative impact his experience in Iraq has had on him, and potentially
26 fabricating an alleged rocket attack.

27 10. MCMAINS claimed to have been exposed to an alleged rocket blast in late
28 October 2007, causing him injury. No information has been found to confirm this claim.

1 No records have been found that document the alleged rocket blast when it occurred or
2 any treatment MCMAINS would have received immediately after. The initial reference
3 to the alleged rocket blast is from MCMAINS' self-reporting of his injuries in January of
4 2008. It appears that through this report MCMAINS was successful in getting the alleged
5 rocket blast included as part of his medical record without providing direct proof that it
6 ever occurred. From that point forward, all references to the alleged rocket attack are
7 based on comments made by MCMAINS, regurgitation of earlier references in
8 MCMAINS' medical history, or are silent as to their source. The records that do exist
9 immediately following the alleged rocket blast indicate that it did not occur. The
10 following is a chronological description of the records which document MCMAINS'
11 medical history immediately following when the alleged rocket attack is said to have
12 occurred.

13 11. A November 15, 2007, post deployment health assessment reports that
14 while deployed, MCMAINS was not exposed to any type of blast, IED explosion, or any
15 event that would cause a blow to his head. This is asked in two separate questions in the
16 assessment. The responses by MCMAINS are consistent, indicating no traumatic event
17 occurred.

18 12. A November 15, 2007, Individual Readiness Record reports that
19 MCMAINS does not have a non-deployable medical profile and that he is not in a limited
20 duty status. A deployable soldier is one that does not have a service-determined reason
21 that precludes him or her from being moved into and out of an operational area in support
22 of operations. A soldier in a limited duty status is one that is unable to perform the full
23 range of their assigned responsibilities. Medical issues are a common reason soldiers are
24 placed in a limited duty status.

25 13. A November 20, 2007, medical appointment reports that MCMAINS
26 returned from Iraq two weeks prior without injury. It also reports that MCMAINS has
27 not had any falls within the past three months.
28

1 14. A December 18, 2007, chiropractic appointment reports MCMAINS just
2 returned from Iraq without injury. The report indicates that MCMAINS has not suffered
3 new injuries since his last appointment, which occurred on August 16, 2007.

4 15. Records that do reference the alleged rocket attack differ on the details and
5 when it reportedly occurred. All records containing information on the alleged rocket
6 attack appear to stem from documents and claims originating from MCMAINS. On
7 January 25, 2008, MCMAINS completed and submitted a Report of Medical History
8 form in which he stated he was severely wounded by an alleged rocket blast in Iraq on
9 October 29, 2007. The alleged rocket attack is referenced four separate times in this
10 form.

11 16. In a March 26, 2008, psychological medical appointment report,
12 MCMAINS reports he was exposed to an alleged blast of a mortar round on October 29,
13 2007.

14 17. In a September 24, 2008, Medical Evaluation Board-Psychiatric
15 Addendum, MCMAINS reports having been in the blast radius of a rocket that allegedly
16 landed in his compound on October 20, 2007. Per MCMAINS, the blast knocked him
17 down and caused him to lose consciousness. MCMAINS reported suffering shrapnel
18 wounds to his upper extremities and face and had an intense fear reaction.

19 18. In an April 3, 2009, compensation and pension examination, MCMAINS
20 reported he suffered shrapnel wounds after being exposed to RPG fire on October 31,
21 2007. He alleged the rocket landed about 20 yards from him.

22 19. In an April 10, 2009, neurology examination, MCMAINS reports he was
23 injured on October 31, 2007, when five 120-mm rockets were launched into his
24 compound. MCMAINS stated one of the rockets exploded 30 feet in front of him,
25 causing loss of consciousness and shrapnel wounds.

26 20. In a June 3, 2009, traumatic brain injury evaluation report, MCMAINS
27 reported that he was injured in an alleged rocket attack in Iraq on October 28, 2007.
28 MCMAINS reported he was thrown to the ground and lost consciousness, he suffered

1 numerous small bleeding shrapnel wounds, and the attack caused him to suffer from
2 headaches, an injury to his lower back, and a period of loss of feeling in his legs. The
3 evaluation report concludes by stating the findings are not consistent with a traumatic
4 brain injury.

5 **C. MCMAINS' Separation from the Army and Applications for VA Benefits**

6 21. MCMAINS' US Army records conflict regarding the severity of
7 MCMAINS' injuries. Notes dated January 29, 2008, from Susan Edgar, LCSW LCDC
8 LMFT, state that MCMAINS is angry and wants out of the Army and that MCMAINS
9 wants the Army to take responsibility for his problems. On March 12, 2008, MCMAINS
10 reenlisted in the US Army and was deemed to be fully qualified. Additional notes dated
11 the following day (March 13, 2008) from Edgar state that MCMAINS has panic attacks
12 all day triggered from his service in Iraq. The note claims that MCMAINS reported
13 neglecting his personal appearance and hygiene, forgetting to shower for two weeks at a
14 time.

15 22. On April 27, 2009, MCMAINS separated from the US Army. MCMAINS'
16 DD-214, Certificate of Release or Discharge From Active Duty indicates he was awarded
17 a Purple Heart and a Combat Action Badge. A review of MCMAINS' military records
18 maintained in the Defense Personnel Records Information Retrieval System found no
19 records that support MCMAINS receiving these medals. Similarly, the US Army Human
20 Resources Center in Fort Knox, KY also has no supporting documentation for the Purple
21 Heart or the Combat Action Badge. Coordination has been conducted with US Army
22 Criminal Investigative Division, who has been unable to locate any records that should
23 exist when a Purple Heart is awarded. A Purple Heart is awarded to service members
24 who are wounded or killed in the line of duty. The Combat Action Badge is awarded to
25 service members who satisfactorily engage the enemy or are engaged by the enemy. The
26 only incident referenced in MCMAINS' available records that would support such
27 activity is the alleged October 2007 rocket attack. In a February 23, 2019, email to the
28 YMCA, MCMAINS connects his claim of receiving a Purple Heart to being hit with a

1 rocket in Iraq. MCMAINS emailed the YMCA to request a discounted or
2 complementary membership to MCMAINS and his family because he is a Purple Heart
3 recipient. However as outlined above, references to the rocket attack are inconsistent and
4 records that should confirm the attack indicate that it did not occur.

5 23. One day after separating from the US Army, on April 28, 2009,
6 MCMAINS received disability ratings from the VA for post-traumatic stress disorder
7 (PTSD) with insomnia and memory lapses at 100%; degenerative disc disease, lumbar
8 with right lower extremity radiculopathy at 40%; patellofemoral syndrome, right at 10%;
9 patellofemoral pain syndrome, left at 10%; and tinnitus at 10%. On May 13, 2009,
10 MCMAINS received his first monthly tax-free benefits check from the VA for \$3,082.00.
11 The payment from the VA was direct deposited into McMAINS' Pentagon Federal Credit
12 Union account. On October 30, 2009, MCMAINS' cumulative disability rating entitled
13 him to statutory housebound status retroactively from the date he separated from the US
14 Army. This increased his monthly tax-free benefits check to \$3,402.00.

15 24. MCMAINS has used his disability ratings and the alleged rocket attack as a
16 platform to continuously apply for additional benefits from the VA. Since separation
17 from the US Army, MCMAINS and JEWEL have provided false information when
18 applying for benefits by US mail, in person, and through eBenefits, a VA online benefits
19 portal. On October 15, 2009, MCMAINS applied for benefits to allow him to modify his
20 home to accommodate his disabilities. MCMAINS did not provide any justification for
21 the application. This application was denied.

22 25. On May 27, 2011, MCMAINS and JEWEL submitted the first of four
23 applications to the PCAFC. As part of this process, MCMAINS was required to undergo
24 an eligibility assessment examination. During this examination MCMAINS reported he
25 required assistance with all activities of daily living except toileting. MCMAINS also
26 reported needing assistance to remain safe from hazards or dangers in his daily
27 environment. Based on MCMAINS' responses, the VA determined MCMAINS had a
28 high dependency level and JEWEL was approved as MCMAINS' caregiver. JEWEL

1 was paid a total of \$99,406.17 by the VA to care for MCMAINS through the PCAFC.
2 Jewel received her first PCAFC payment on August 28, 2012 in the amount of \$2041.02.
3 Jewel received her last PCAFC payment on December 31, 2015 in the amount of
4 \$7541.13. MCMAINS was removed from the program at the end of 2015 when he was
5 found no longer eligible for the PCAFC due to inconsistencies in his disabilities and
6 limitations. MCMAINS and JEWEL appealed this decision and submitted multiple
7 statements claiming that MCMAINS required assistance with activities of daily living
8 and that his life is in danger without a caregiver. A January 3, 2016, memorandum
9 submitted by MCMAINS and JEWEL states that MCMAINS cannot fully dress himself,
10 he almost drowned while bathing, he cannot use the toilet independently, he cannot feed
11 himself, and he requires assistance transferring. The appeal was denied.

12 26. On October 17, 2013, MCMAINS submitted a second application to the
13 VA for benefits to allow him to modify his home to accommodate his disabilities. In the
14 application MCMAINS indicates that being in a wheelchair prevented him from
15 showering and that a full "ADA" modification was done to the home. In the same
16 application MCMAINS indicates that the second floor of the home is inaccessible to him
17 and that a wheelchair lift needs to be installed. The application was denied. On July 30,
18 2019 MCMAINS' Eatonville, WA home was placed on the market and numerous photos
19 made available online. This is the same home MCMAINS lived in when he submitted
20 the 2013 application and none of the photos suggest any modifications were made to the
21 home to make it more handicap accessible. MCMAINS lived in this home until July
22 2019.

23 27. On May 15, 2015, MCMAINS underwent a PTSD examination with the
24 VA. As a result of this examination, the VA proposed to reduce MCMAINS' PTSD
25 rating from 100% to 30% which would drop his monthly tax-free benefits from \$3,856.52
26 to \$1,754.71. In an effort to appeal the VA' proposed reduction, on July 2, 2015,
27 MCMAINS met with Daniel Comsia, a private mental health counselor and contractor for
28 the State of Washington Department of Veterans Affairs. Comsia completed the same

1 PTSD examination form as was used in the May 15, 2015, examination. MCMAINS
2 then took the Comsia completed PTSD examination form and changed the responses to
3 indicate his PTSD was much more severe than Comsia had evaluated it to be. The
4 version of the form submitted to the VA by MCMAINS included some of the following
5 changes: total occupational and social impairment, panic with agoraphobia, cognitive
6 ability greatly impaired by his PTSD, and a Global Assessment of Functioning (GAF) of
7 20. The GAF scale is used to rate how serious a mental illness may be. It measures how
8 much a person's symptoms affect his or her day-to-day life on a scale of 0 to 100, with 0
9 being the most impaired. A score of 20 is indicative of a person in some danger of
10 hurting self or others (e.g., suicide attempts without clear expectation of death, frequently
11 violent, manic excitement) or occasionally fails to maintain minimal personal hygiene
12 (e.g., smears feces) or gross impairment in communication (e.g., largely incoherent or
13 mute). Comsia noted that persons with a GAF of 20 are at Western State Hospital, a
14 psychiatric hospital in Lakewood, WA.

15 28. MCMAINS used Comsia's signature from the original PTSD examination
16 form to make it appear that the modified form had been completed by Comsia.
17 MCMAINS submitted the modified PTSD examination form to the VA as part of his
18 appeal to maintain his PTSD rating at 100%. To further support his appeal efforts, on
19 July 29, 2015, MCMAINS submitted VA Form 21-6940, Veteran's Application for
20 Increased Compensation Based on Unemployability to the VA citing PTSD and his
21 medical retirement from Army. Additionally, MCMAINS and JEWEL provided personal
22 statements to the VA detailing the severity of MCMAINS' condition. On November 2,
23 2015, the VA reversed the proposed rating reduction decision and maintained
24 MCMAINS' 100% PTSD rating. In the reversal report, the VA cites the Comsia PTSD
25 evaluation, the VA Form 21-6940, and the personal statements submitted by MCMAINS
26 and JEWEL as evidence for the decision.

27 29. On September 26, 2019, VA-OIG Special Agent Yilin Wu and I
28 interviewed Comsia. Comsia reviewed the PTSD examination that contained his

1 signature that was submitted to the VA by MCMAINS. Comsia immediately noted the
2 form had been modified because it was typed. Comsia stated that it is his practice to
3 handwrite the PTSD form. After reviewing the modified form, Comsia noted additional
4 alterations had been made because the responses were excessive as compared to
5 MCMAINS' true condition. Comsia provided a sworn statement to document this matter.
6 Based on their interaction, Comsia was not aware of MCMAINS having any physical
7 limitations.

8 30. On June 1, 2017, MCMAINS and JEWEL submitted the second of four
9 applications for the PCAFC. This application was denied.

10 31. Between September 29, 2017, and October 29, 2018, MCMAINS and
11 JEWEL met multiple times with Dr. Dangtuong Nguyen, VA Medical Center at
12 American Lake. MCMAINS and JEWEL regularly reported MCMAINS suffered from
13 difficulties with activities of daily living. On June 10, 2019, MCMAINS and JEWEL
14 met with Nguyen to request he complete VA Form 21-2680, Examination for
15 Housebound Status or Permanent Need for Regular Aid and Attendance on MCMAINS.
16 The VA Form 21-2680 was completed and states that MCMAINS requires assistance
17 with feeding, clothing, bathing, and toileting. It also states that MCMAINS is unable to
18 lift more than five pounds or walk more than ten feet, and that MCMAINS spends 20
19 hours per day in bed.

20 32. On June 10, 2019, MCMAINS and JEWEL submitted their third of four
21 applications to the PCAFC. This application included the VA Form 21-2680 completed
22 during the Nguyen examination and also included a memorandum dated June 1, 2019,
23 that contained the same language from the January 3, 2016, memorandum, stating
24 MCMAINS cannot fully dress himself, he almost drowned while bathing, he cannot use
25 the toilet independently, he cannot feed himself, and he requires assistance transferring.
26 Their application was again denied. Contributing to the denial were records obtained
27 from Madigan Army Medical Center which identified a November 5, 2018, physician's
28 note claiming that MCMAINS had lost 50 pounds doing light cardio and lifting weights.

1 33. The VA Form 21-2680 completed during the Nguyen examination was also
2 used to apply for aid and attendance benefits. This application was denied on July 10,
3 2019, noting that this benefit is reserved for qualified veterans who are bedridden and so
4 helpless that they require regular assistance. Available records did not support
5 MCMAINS being in this condition.

6 34. On September 17, 2019, Social Security Administration-Office of Inspector
7 General Special Agent Rory McPherson and I interviewed Nguyen. Nguyen confirmed
8 that he treated MCMAINS for back pain and had met with MCMAINS a total of six
9 times, which includes the June 10, 2019, meeting. In his meetings with Nguyen,
10 MCMAINS presented as requiring assistance ambulating, and relied on a wheelchair,
11 cane, or JEWEL to move around. MCMAINS and JEWEL told Nguyen that MCMAINS
12 needs assistance with activities of daily living. MCMAINS and JEWEL requested
13 Nguyen complete the VA Form 21-2680 specifically so it could be included in an
14 application for the PCAFC. Nguyen only completed the portions of the form that he felt
15 he had enough information to answer based on either his observations of MCMAINS or
16 comments made by MCMAINS and JEWEL. Nguyen assumes that the remainder of the
17 form was completed by MCMAINS or JEWEL. The form was signed by Nguyen.

18 35. In August 2019, MCMAINS and JEWEL relocated to Pensacola, FL and
19 quickly affiliated with the local VA facilities. On August 16, 2019, MCMAINS met Dr.
20 Thomas Noethlich from the VA Medical Center in Biloxi, MS. MCMAINS reported that
21 he suffered burns, shrapnel wounds, a traumatic brain injury, and a spinal cord injury
22 from a 120mm rocket explosion in 2007 while in Iraq. MCMAINS claimed to have been
23 partially paralyzed for two months to two years.

24 36. On September 23, 2019, MCMAINS and JEWEL met with Nurse
25 Practitioner Elizabeth McCormack, also from the VA Medical Center in Biloxi, MS.
26 MCMAINS and JEWEL reported that JEWEL is MCMAINS' primary caregiver and
27 assists him with multiple activities of daily living, to include showering, toileting,
28

1 medication management, among others. MCMAINS presented in a wheelchair with
2 sunglasses and relied on JEWEL for assistance with transfer and transportation.

3 37. On October 18, 2019, MCMAINS and JEWEL made their fourth and most
4 recent applications to the PCAFC. The application included a copy of the previously
5 submitted June 1, 2019, memorandum stating MCMAINS cannot fully dress himself, he
6 almost drowned while bathing, he cannot use the toilet independently, he cannot feed
7 himself, and he requires assistance transferring. In processing the application, the VA
8 conducted a phone interview with JEWEL on November 8, 2019. JEWEL reported that
9 MCMAINS requires assistance with dressing/undressing from the waist down, personal
10 hygiene from the waist down, toileting, prosthetics, and transferring. JEWEL stated that
11 MCMAINS utilizes a cane daily and the wheelchair on days of acute pain, which is
12 approximately daily. JEWEL aids MCMAINS with transfers from the seated to standing
13 position and vice versa. MCMAINS has two external knee braces supplied by VA that he
14 utilizes daily. The application to the PCAFC was again denied.

15 38. On December 17, 2019, MCMAINS had a PTSD examination with
16 psychiatrist Anita Nusbaum at the VA Joint Ambulatory Care Center (JACC) in
17 Pensacola, FL. MCMAINS arrived at the examination in a wheelchair wearing two
18 external knee braces. JEWEL pushed the wheelchair and MCMAINS was never
19 observed getting out of the wheelchair except to walk the few steps from his vehicle to
20 the wheelchair and vice versa in the parking lot. After the examination, VA-OIG SA Dan
21 Henson and I interviewed Nusbaum. During the examination MCMAINS made claims
22 about his condition. These claims included that he has been in wheelchair since he was
23 blown up in Iraq in 2007, that he does not go anywhere by himself, that he does not have
24 "good" days because his depression is constant, and that he spends one to two days per
25 week in bed. Nusbaum also met with JEWEL who reported that MCMAINS cannot do
26 much to help around the house, has difficult putting on a shirt, does not like being around
27 other people, and that he suffers from paranoia. Nusbaum noted that MCMAINS
28 appeared to be exaggerating or feigning his symptoms. MCMAINS also claimed he

1 | could not remember when he last drove a vehicle. I obtained surveillance footage from
2 | the JACC parking lot and observed that MCMAINS drove himself and JEWEL to the
3 | examination with Nusbaum. The footage shows MCMAINS exit the vehicle by himself
4 | with his hood up and sunglasses on. MCMAINS wore external knee braces on both legs
5 | and walked to the back of the vehicle where he stood waiting for JEWEL to unload the
6 | wheelchair and ready it for him. Once ready, MCMAINS sat in the wheelchair and
7 | JEWEL pushed him into the JACC. When leaving the JACC, MCMAINS was seated in
8 | the wheelchair and JEWEL pushed him to the vehicle. MCMAINS still had his hoody up
9 | and sunglasses on. MCMAINS appeared to be doing something on his phone as JEWEL
10 | pushed him. When they arrived at the vehicle, MCMAINS stood up with minimal
11 | assistance from JEWEL and walked to the passenger side of the vehicle. MCMAINS
12 | was still wearing his knee braces. It cannot be seen how much, if any, assistance JEWEL
13 | provides to MCMAINS as he got into the vehicle. JEWEL stowed the wheelchair and
14 | drove the vehicle away from the JACC. During her meeting with Nusbaum, JEWEL
15 | reported that MCMAINS was driving his parents to the airport a few weeks prior when
16 | they visited for Thanksgiving. On the way to the airport MCMAINS got into an accident
17 | by rear-ending the car in front of them. JEWEL indicated that they are currently driving
18 | a rental vehicle.

19 | ***D. Evidence Contradicting MCMAINS' Disability Claims***

20 | 39. In addition to the inconsistencies contained in MCMAINS' medical and
21 | claims records, this investigation has uncovered information that directly contradicts
22 | information MCMAINS and JEWEL have provided to the VA concerning MCMAINS'
23 | medical condition and limitations.

24 | 40. On January 21, 2012, MCMAINS and his family returned to their home
25 | after being away for a few days due to a power outage. MCMAINS found the kitchen
26 | was on fire and attempted to extinguish it. MCMAINS provided a witness statement to
27 | the Pierce County Fire Prevention Bureau indicating that to extinguish the fire he grabbed
28 | his garden hose and entered the house and ducked under the smoke on his way to the

1 kitchen. This level of physical and mental activity is inconsistent with how MCMAINS
2 has presented himself to VA. The January 3, 2016 and June 1, 2019, memorandums
3 mentioned above that were included in MCMAINS' PCAFC applications, state that
4 MCMAINS burned their home down. These statements are an attempt to draw a direct
5 link between their claim that MCMAINS' is unable to care for himself and was the cause
6 of the fire. Such a link was not established by the fire investigation.

7 41. An ongoing review of the Facebook profiles of MCMAINS, JEWEL and
8 some of their friends and family members have uncovered numerous images, videos, and
9 comments that demonstrate MCMAINS is mentally and physically capable. The
10 information also shows that MCMAINS is functional in public settings. Below is a
11 description of the identified Facebook content. The content is listed chronologically
12 based on date posted.

13 42. A September 2, 2009, post by MCMAINS' mother Pamela Christine
14 McMains (Facebook profile: "PamSuterMcMains") shows a picture of MCMAINS with
15 his two sisters and is dated November 2007. MCMAINS does not appear to be in a
16 wheelchair or exhibiting any symptoms of being exposed to a rocket blast.

17 43. An April 17, 2011, post by MCMAINS' sister Angela McMains Genz
18 (Facebook profile: "angiegenz") shows an image of MCMAINS standing up. The photo
19 is dated April 15, 2011, and MCMAINS is not wearing external knee braces or using any
20 other visible assistive devices.

21 44. An August 20, 2015, post by JEWEL (Facebook profile: "jewels.pics")
22 shows an image of MCMAINS standing behind a small race car. MCMAINS is not
23 wearing any knee braces or using any other visible assistive devices.

24 45. An October 29, 2015, post by Project Odyssey Sunriver (POS) 2015
25 (Facebook group: "166504783699335") shows an image of MCMAINS sitting in a canoe
26 holding a paddle in the middle of a body of water. A second post by POS on October 29,
27 2015, shows two images of MCMAINS standing in a large room wearing a blindfold. In
28

1 one image MCMAINS appears to be stretching. MCMAINS is not wearing any external
2 knee braces or using any other visible assistive devices.

3 46. An October 30, 2015, post by POS shows an image of MCMAINS and
4 JEWEL standing in what appears to be a transportation terminal. MCMAINS appears to
5 be holding a coffee and is not wearing any external knee braces or using any other visible
6 assistive devices.

7 47. An April 23, 2017, post by CenterPoint Church of Eatonville, WA
8 documents a church mission visit to Guatemala in 2014. The video shows MCMAINS
9 walking without any assistive devices and bending over to work with fresh concrete. The
10 video also contains freeze frame images of MCMAINS running and jumping rope.

11 48. A June 19, 2017, post by MCMAINS' daughter Trinity McMains (Trinity),
12 (Facebook profile: "100008763150849") shows an image of Trinity and MCMAINS
13 standing on some uneven rocks in front of a large body of water. MCMAINS is not
14 wearing any knee braces or using any other visible assistive devices.

15 49. A May 22, 2018, post by JEWEL shows an image of MCMAINS, JEWEL
16 and their children in the stands of a stadium. Based on the date and the background, this
17 image appears to be from the Taylor Swift concert that occurred at CenturyLink Field in
18 Seattle, WA on May 22, 2018.

19 50. A June 8, 2018, post by JEWEL shows an image of MCMAINS sitting in a
20 round bumper boat in a pool. MCMAINS does not appear to be wearing any floatation
21 devices or external knee braces.

22 51. JEWEL made multiple posts on June 10, 2018, that contain images and
23 videos of MCMAINS and JEWEL engaged in pugil stick fighting in a large bouncy
24 house. Pugil stick fighting involves a heavily padded pole-like training weapon that
25 combatants swing at each other in playful contest or training. MCMAINS can be seen
26 swinging the stick, standing up, falling, rolling over, and balancing on a small unstable
27 platform. MCMAINS is not wearing any external knee braces or using any other visible
28 assistive devices.

1 52. JEWEL made multiple posts on February 1, 2019, that contain images of
2 MCMAINS playing basketball. The images depict MCMAINS jumping, lunging after a
3 basketball, and moving down the court. MCMAINS is not wearing any knee braces or
4 using any other visible assistive devices.

5 53. JEWEL made multiple posts on February 3, 2019, that contain an image
6 and videos of MCMAINS using a trampoline to dunk a basketball. MCMAINS can be
7 seen momentarily hanging on the basketball rim and pulling his knees up before falling
8 onto his buttock on the trampoline. MCMAINS is not wearing any knee braces or using
9 any other visible assistive devices.

10 54. A February 6, 2019, post by MCMAINS (Facebook profile:
11 "kevinmcmains") shows an image of MCMAINS holding a TOPS Club Inc. merit
12 certificate indicating he came in first place in his division by losing 50.2 pounds in 2018.
13 TOPS is a weight loss program that stands for "Take Off Pounds Sensibly".

14 55. A March 23, 2019, post by JEWEL shows an image of MCMAINS smiling
15 in what appears to be stadium seating. Other people are visible in the background.

16 56. A March 25, 2019, post by MCMAINS shows an image of what appears to
17 be a smartphone screen capture of a workout summary. The images states 231 reps,
18 17949 lbs, and 0:48 H. MCMAINS commented "18 thousand pounds lifted
19 today...damn not bad...".

20 57. An April 3, 2019, post by JEWEL show MCMAINS sitting at a table
21 playing Monopoly with what appears to be his brother-in-law Philip Genz (Philip) and
22 three of their children. The comments indicate that MCMAINS won multiple games.

23 58. A May 4, 2019, post by JEWEL shows MCMAINS standing, wearing a suit
24 and holding a framed TOPS certificate. MCMAINS is not wearing any external knee
25 braces or using any other visible assistive devices.

26 59. A May 4, 2019, video posted by JEWEL shows MCMAINS being
27 introduced before a large crowd and holding up a large pair of pants. The announcer
28 indicates that MCMAINS' pants size has gone from a 4XL to a 1XL. MCMAINS can be

1 seen walking across the stage area and is not wearing any external knee braces or using
2 any other visible assistive devices.

3 60. A May 4, 2019, video posted by JEWEL shows MCMAINS being
4 introduced with multiple other individuals who served in the military. The group is
5 standing in front of a large audience. MCMAINS can be seen placing the American flag
6 in front of the group and returning to his place in line. MCMAINS is not wearing any
7 external knee braces or using any other visible assistive devices.

8 61. On May 6, 2019, JEWEL posted multiple images of MCMAINS and their
9 children at a bowling alley. MCMAINS can be seen bending over to retrieve a bowling
10 ball and elevating a bowling ball as is done before throwing the ball down the alley.

11 MCMAINS is not wearing any knee braces or using any other visible assistive devices.

12 62. On May 15, 2019, JEWEL posted multiple images of MCMAINS that are
13 noted as being taken at the Mel Korum Family YMCA in Puyallup, WA. In the images,
14 MCMAINS appears to be engaged in suspension training and is using TRX straps
15 attached to the wall above him to balance himself while he places his feet flat on the wall
16 facing the floor. As he uses his strength to suspend himself completely horizontal to the
17 floor, no part of MCMAINS' body is touching the floor. MCMAINS is not wearing any
18 knee braces or using any other visible assistive devices, other than the straps which are
19 supporting his weight.

20 63. On June 12, 2019, JEWEL posted an image of MCMAINS and another
21 person in a boat, which appears to be a paddle boat. A life preserver is visible on the
22 back of the boat, but MCMAINS does not appear to be wear any type of flotation device.

23 64. On July 2, 2019, MCMAINS posted an image of a steak being cooked with
24 the comment that he is giving the power air fryer a shot at cooking his T-bone tonight.

25 65. On July 4, 2019, Philip (Facebook profile: "philip.genz.5") and MCMAINS
26 posted multiple images and a video of MCMAINS in a hotdog eating contest.

27 MCMAINS commented that he ate seven hotdogs. In the video MCMAINS is seated and
28

1 can be seen feeding himself independently. MCMAINS is not wearing any type of knee
2 braces.

3 66. On July 10, 2019, MCMAINS posted an image of a TV dinner. The
4 comment implies that MCMAINS will be eating TV dinners for a few more weeks while
5 JEWEL is away. The comments do not indicate if anyone is helping to care for
6 MCMAINS in JEWEL's absence.

7 67. On August 7, 2019, JEWEL posted a video of her, MCMAINS and other
8 family members walking up to a home. From the dialogue it can be inferred that
9 MCMAINS is visiting some of his daughters whom he does not live with. MCMAINS
10 can be seen walking without any knee braces or assistive devices. MCMAINS can also
11 be seen climbing stairs and driving a vehicle.

12 68. On August 25, 2019, Philip posted an image of MCMAINS swimming in a
13 large body of water. The description indicates the photo was taken at Pensacola Beach
14 near Gulf Breeze, FL. MCMAINS is alone in the photo and the water is up to his neck.
15 No flotation devices are visible in the photo.

16 69. On September 7, 2019, MCMAINS posted an image of himself, JEWEL
17 and other family members sitting at a restaurant table eating cake. MCMAINS can be
18 seen holding his own fork and cake. Car keys are sitting on the table in front of
19 MCMAINS.

20 70. On September 7, 2019, JEWEL posted an image of MCMAINS and his
21 stepson in a go-cart. MCMAINS is driving and due to his size, MCMAINS' knees are
22 bent and visible next to the steering wheel. MCMAINS is not wearing any type of knee
23 brace.

24 71. On October 9, 2019, MCMAINS posted a photo of himself shooting
25 multiple handguns at a gun range. MCMAINS is standing the entire time and can be seen
26 walking between tables to access each of the handguns. MCMAINS is not wearing any
27 knee braces or using any other visible assistive devices. MCMAINS can be seen loading
28

1 the weapons, clearing the weapons, and locking the slides to the rear. The video shows
2 MCMAINS pulling on a rope that appears to reset the metal targets he is shooting at.

3 72. On November 2, 2019, JEWEL posted multiple images of MCMAINS and
4 other family members in an open field near some airplanes. In the images, MCMAINS
5 can be seen walking, mid-step, with no visible assistive devices or external knee
6 braces. MCMAINS can also be seen bending over with his hands on his knees.

7 73. The above referenced content from Facebook is relevant to this
8 investigation because it provides images, videos, and comments that are evidence of
9 MCMAINS' mental and physical capabilities. These capabilities directly contradict
10 claims made by MCMAINS and JEWEL to the VA and have served as a basis for the VA
11 to provide MCMAINS and JEWEL financial compensation. Several of these images and
12 videos were shown to Nguyen during the September 17, 2019, interview referenced
13 above. Nguyen was shocked and disappointed to see the drastic differences between the
14 MCMAINS he examined and the MCMAINS seen in the images and videos. Nguyen
15 commented that some of the activities MCMAINS can be seen doing in the Facebook
16 media should not be possible based on his examinations of MCMAINS.

17 74. MCMAINS currently receives \$4,312.76 per month, tax free, from the VA.
18 As of January 15, 2020, MCMAINS has received \$484,431.38, tax free, in benefits
19 related to his service-connected disabilities. Since October 15, 2013, MCMAINS has
20 also received a clothing allowance from the VA related to his need to wear two external
21 knee braces. In total, MCMAINS has received \$10,244.15, tax free, in clothing
22 allowance benefits. During their period of eligibility, JEWEL was paid a total of
23 \$99,406.17 by the VA to care for MCMAINS through the PCAFC.

24 **III. BACKGROUND REGARDING FACEBOOK**
25 **SOCIAL NETWORKING SERVICES**

26 75. Facebook owns and operates a free-access social networking website of the
27 same name that can be accessed at <http://www.facebook.com>. Facebook allows its users
28 to establish accounts with Facebook, and users can then use their accounts to share

1 written news, photographs, videos, and other information with other Facebook users, and,
2 sometimes, with the general public.

3 76. Facebook asks users to provide basic contact and personal identifying
4 information, either during the registration process or thereafter. This information
5 includes the user's full name, birth date, gender, contact e-mail addresses, Facebook
6 passwords, Facebook security questions and answers (for password retrieval), physical
7 address (including city, state, and zip code), telephone numbers, screen names, websites,
8 and other personal identifiers. Facebook also assigns a user identification number to each
9 account.

10 77. Facebook users may join one or more groups or networks to connect and
11 interact with other users who are members of the same group or network. Facebook
12 assigns a group identification number to each group. A Facebook user can also connect
13 directly with individual Facebook users by sending each user a "Friend Request." If the
14 recipient of a "Friend Request" accepts the request, then the two users will become
15 "Friends" for purposes of Facebook and can exchange communications or view
16 information about each other. Each Facebook user's account includes a list of that user's
17 "Friends" and a "News Feed," which highlights information about the user's "Friends,"
18 such as profile changes, upcoming events, and birthdays.

19 78. Facebook users can select different levels of privacy for the
20 communications and information associated with their Facebook accounts. By adjusting
21 these privacy settings, a Facebook user can make information available only to himself or
22 herself, to particular Facebook users, or to anyone with access to the Internet, including
23 people who are not Facebook users. A Facebook user can also create "lists" of Facebook
24 friends to facilitate the application of these privacy settings. Facebook accounts also
25 include other account settings that users can adjust to control, for example, the types of
26 notifications they receive from Facebook.

27 79. Facebook users can create profiles that include photographs, lists of
28 personal interests, and other information. Facebook users can post "status" updates about

1 their whereabouts and actions, as well as links to videos, photographs, articles, and other
2 items available elsewhere on the Internet. Facebook users can also post information
3 about upcoming "events," such as social occasions, by listing the events' time, location,
4 host, and guest list. In addition, Facebook users can "check in" to particular locations or
5 add their geographic locations to their Facebook posts, thereby revealing their geographic
6 locations at particular dates and times. A user's profile page also includes a "Wall,"
7 which is a space where the user and his or her "Friends" can post messages, attachments,
8 and links that typically are visible to anyone who can view the user's profile.

9 80. Facebook allows users to upload photos and videos. It also provides users
10 the ability to "tag" (i.e., label) other Facebook users in a photo or video. When a user is
11 tagged in a photo or video, he or she receives a notification of the tag and a link to see the
12 photo or video. For Facebook's purposes, the photos and videos associated with a user's
13 account will include all photos and videos uploaded by that user that have not been
14 deleted, as well as all photos and videos uploaded by any user that have that user tagged
15 in them.

16 81. Facebook users can exchange messages on Facebook with other users
17 through a "Private Message" feature. These messages, which are similar to e-mail and
18 text messages, are sent to the recipient's Facebook "Inbox," which stores copies of
19 messages sent by the recipient. Facebook users can also post comments on the Facebook
20 profiles of other users or on their own profiles; such comments are typically associated
21 with a specific posting or item on the profile. Facebook also has a Video Calling
22 feature, and, although Facebook does not record the calls themselves, it does keep records
23 of the date of each call.

24 82. If a Facebook user does not want to interact with another user on Facebook,
25 the first user can "block" the second user from seeing his or her account.

26 83. Facebook has a "like" feature that allows users to give positive feedback or
27 connect to particular pages. Facebook users can "like" Facebook posts or updates, as
28

1 well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook
2 users can also become “fans” of particular Facebook pages.

3 84. Facebook has a search function that enables its users to search Facebook for
4 keywords, usernames, or pages, among other things.

5 85. Each Facebook account has an activity log, which is a list of the user’s
6 posts and other Facebook activities from the inception of the account to the present. The
7 activity log includes stories and photos that the user has been tagged in, as well as
8 connections made through the account, such as “liking” a Facebook page or adding
9 someone as a friend. The activity log is visible to the user but cannot be viewed by
10 people who visit the user’s Facebook page.

11 86. Facebook Notes is a blogging feature available to Facebook users, and it
12 enables users to write and post notes or personal web logs (“blogs”), or to import their
13 blogs from other services, such as Xanga, LiveJournal, and Blogger.

14 87. The Facebook Gifts feature allows users to send virtual “gifts” to their
15 friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase,
16 and a personalized message can be attached to each gift. Facebook users can also send
17 each other “pokes,” which are free and simply result in a notification to the recipient that
18 he or she has been “poked” by the sender.

19 88. Facebook also has a Marketplace feature, which allows users to post free
20 classified ads. Users can post items for sale, housing, jobs, and other items on the
21 Marketplace.

22 89. In addition to the applications described above, Facebook also provides its
23 users with access to thousands of other applications on the Facebook platform. When a
24 Facebook user accesses or uses one of these applications, an update about that the user’s
25 access or use of that application may appear on the user’s profile page.

26 90. Some Facebook pages are affiliated with groups of users, rather than one
27 individual user. Membership in the group is monitored and regulated by the
28 administrator or head of the group, who can invite new members and reject or accept

1 requests by users to enter. Facebook can identify all users who are currently registered to
2 a particular group and can identify the administrator and/or creator of the group.
3 Facebook uses the term "Group Contact Info" to describe the contact information for the
4 group's creator and/or administrator, as well as a PDF of the current status of the group
5 profile page.

6 91. Facebook uses the term "Neoprint" to describe an expanded view of a given
7 user profile. The "Neoprint" for a given user can include the following information from
8 the user's profile: profile contact information; News Feed information; status updates;
9 links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists,
10 including the friends' Facebook user identification numbers; groups and networks of
11 which the user is a member, including the groups' Facebook group identification
12 numbers; future and past event postings; rejected "Friend" requests; comments; gifts;
13 pokes; tags; and information about the user's access and use of Facebook applications.

14 92. Facebook also retains Internet Protocol ("IP") logs for a given user ID or IP
15 address. These logs may contain information about the actions taken by the user ID or IP
16 address on Facebook, including information about the type of action, the date and time of
17 the action, and the user ID and IP address associated with the action. For example, if a
18 user views a Facebook profile, that user's IP log would reflect the fact that the user
19 viewed the profile, and would show when and from what IP address the user did so.

20 93. Facebook has a service known as "Facebook Messenger," which allows one
21 Facebook user to communicate directly with another. These messages are stored within
22 the user's profile for an indefinite period of time and can only be deleted by the user.
23 Provided the user had not deleted the messages, Facebook is able to provide this
24 information.

25 94. Social networking providers like Facebook typically retain additional
26 information about their users' accounts, such as information about the length of service
27 (including start date), the types of service utilized, and the means and source of any
28 payments associated with the service (including any credit card or bank account number).

1 In some cases, Facebook users may communicate directly with Facebook about issues
2 relating to their accounts, such as technical problems, billing inquiries, or complaints
3 from other users. Social networking providers like Facebook typically retain records
4 about such communications, including records of contacts between the user and the
5 provider's support services, as well as records of any actions taken by the provider or
6 user as a result of the communications.

7 95. Therefore, the records of Facebook are likely to contain all the material
8 described above, including stored electronic communications and information concerning
9 subscribers and their use of Facebook, such as account access information, transaction
10 information, and other account information.

11 **IV. INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED**

12 96. I anticipate executing this warrant under the Electronic Communications
13 Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by
14 using the warrant to require Facebook to disclose to the government copies of the records
15 and other information (including the content of communications) particularly described in
16 Section I of Attachment B. Upon receipt of the information described in Section I of
17 Attachment B, government-authorized persons will review that information to locate the
18 items described in Section II of Attachment B.

19 **V. REQUEST FOR NONDISCLOSURE AND SEALING**

20 97. I request, pursuant to the preclusion-of-notice provisions of Title 18, United
21 States Code, Section 2705(b), that Facebook be ordered not to notify any person
22 (including the subscriber or customer to which the materials relate) of the existence of
23 this warrant for such period as the Court deems appropriate. The government submits
24 that such an order is justified because notification of the existence of this Order would
25 seriously jeopardize the ongoing investigation. Such a disclosure would give the
26 subscriber an opportunity to destroy change patterns of behavior and to continue his
27 flight from prosecution
28

1 98. I further request that the Court order that all papers in support of this
2 application, including the affidavit and search warrant, be sealed until further order of the
3 Court. These documents discuss an ongoing fraud investigation that is neither public nor
4 known to the target of the investigation. Accordingly, there is good cause to seal these
5 documents because their premature disclosure may seriously jeopardize the investigation
6 by assisting the target's continued flight from prosecution.

7 //

8 //

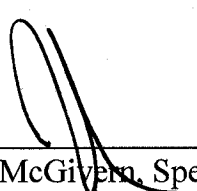
9 //

VI. CONCLUSION

99. Based on the forgoing, I request that the Court issue the proposed search warrant. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is “a district court of the United States . . . that – has jurisdiction over the offenses being investigated.” 18 U.S.C. § 2711(3)(A)(i). Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant. Accordingly, by this Affidavit, I seek authority for the government to search all of the items specified in Section I, Attachment B (attached hereto and incorporated by reference herein) to the Warrant, and specifically to seize all of the data, documents and records that are identified in Section II to that same Attachment.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and belief.

DATED this 10th day of February, 2020.



Joseph McGivern, Special Agent
Department of Veterans Affairs
Office of Inspector General

SUBSCRIBED AND SWORN before me on this 10th day of February, 2020.



DAVID W. CRISTEL
United States Magistrate Judge

ATTACHMENT A
Description of Property to be Searched

1. This warrant applies to information associated with the Facebook user profiles jewels.pics, kevinmcmains, philip.genz.5, angiegenz, PamSuterMcMains, CenterPointEatonville, and user ID 100008763150849 and group ID 166504783699335, stored at premises owned, maintained, controlled, or operated by Facebook, a company headquartered in Menlo Park, California. The full URLs for these accounts are as follows:

<https://www.facebook.com/jewels.pics>

<https://www.facebook.com/kevinmcmains>

<https://www.facebook.com/philip.genz.5>

<https://www.facebook.com/angiegenz>

<https://www.facebook.com/PamSuterMcMains>

<https://www.facebook.com/CenterPointEatonville>

<https://www.facebook.com/profile.php?id=100008763150849>

<https://www.facebook.com/groups/166504783699335>

ATTACHMENT B
Particular Things to be Seized

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook shall disclose the following information to the government for the user ID listed in Attachment A:

- (a) All contact and personal identifying information, including full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities;
- (c) All photos and videos uploaded by that user ID and all photos and videos uploaded by any user that have that user tagged in them;
- (d) All profile information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; Friend lists, including the Friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;
- (e) All other records of communications and messages made or received by the user, including all private messages, chat history, video calling history, and pending "Friend" requests;
- (f) All "check ins" and other location information;

- (g) All IP logs, including all records of the IP addresses that logged into the account;
- (h) All records of the account's usage of the "Like" feature, including all Facebook posts and all non-Facebook webpages and content that the user has "liked";
- (i) All information about the Facebook pages that the account is or was a "fan" of;
- (j) All past and present lists of friends created by the account;
- (k) All records of Facebook searches performed by the account;
- (l) All information about the user's access and use of Facebook Marketplace;
- (m) The types of service utilized by the user;
- (n) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);
- (o) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (p) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

II. Information to be seized by the government

The following information described above in Section I that relates to the ongoing fraud investigation involving Kevin and Jewel McMains, for the user ID, user profiles, and group ID, identified in Attachment A:

- (a) Any content including e-mails, messages, texts, photographs, visual images, documents, spreadsheets, address lists, and contact lists
- (b) Any metadata contained in images, to include but not limited to the date, time, and location the image was taken.

- (c) All records relating to who created and used the user ID's, and all records identifying any person with whom the user has been in contact
- (d) All subscriber records associated with the specified accounts, including name, address, local and long distance telephone connection records, records of session times and durations, length of service (including start date) and types of service utilized, telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address, and means and source of payment for such service including any credit card or bank account number.
- (e) Any and all other log records, including IP address captures, associated with the specified accounts.
- (f) Any records of communications between Facebook and any person about issues relating to the account, such as technical problems, billing inquiries, or complaints from other users about the specified account. This to include records of contacts between the subscriber and the provider's support services, as well as records of any actions taken by the provider or subscriber as a result of the communications.